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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/918,576
Filing Date: July 31, 2001
Appellant(s): DUNN, ROBERT M.

Volel Emile
Reg. No. 39,969
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 13 December 2007 appealing from the Office action mailed 21 March 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,6061,667	DANFORTH-KLEIN ET AL	5-2000
6,058,373	BLINN ET AL	5-2000

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Danford-Klein et al. (hereinafter Danford-Klein) U.S. Patent 6,061,667 in view of Blinn et al. (hereinafter Blinn) U.S. Patent 6,058,373.

Regarding claims 1, 10 and 24, Danford-Klein teaches a method of providing a calculation scale framework for use in an electronic commerce environment comprising a computer network, the electronic commerce environment defining a calculation rule, and a set of commerce objects being defined by the electronic commerce environment, the method comprising:

providing a calculation scale comprising calculation ranges, each said calculation range being either cumulative or non-cumulative and having an associated range start number, an optional currency attribute, which if present specifies the currency of the range start numbers,

and an optional unit of measure attribute, which is present specifies the unit of measure for the range start numbers (column 12, lines 64 thru column 13, line 13);

providing a calculation scale look up interface to return a look up number, a base monetary value, a result multiplier and a set of mathematical weights corresponding to the set of commerce objects (column 15, lines 43-63);

providing a range look up result interface to return a calculation result (column 15, line 64 thru column 16, line 15); and

providing a multiplication product of the calculation result and the result multiplier (column 16, lines 23-39).

Danford-Klein fails to teach the totaling steps. Blinn teaches processing electronic order forms by providing a total result by adding the multiplication product to a previously determined sum of multiplication products, for cumulative calculation ranges or, replacing the previously determined multiplication product for noncumulative calculation ranges; and apportioning the total result to the set of commerce objects in proportion to the set of mathematical weights (column 29, lines 50-59). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Danford-Klein and include the teachings of Blinn because it provides for obtaining a total when using a calculation scale framework along with calculation rules, unit of measurements and associated ranges.

Claims 2 and 12, passing the set of commerce objects, the calculation rule, and the calculation scale to the calculation scale look up interface (column 15, lines 43-63).

Claims 3 and 13, comprising passing a currency, a calculation range look up result, an applicable part of a look up number, and an applicable part of a base monetary value (column 17, lines 31-50).

Claims 4 and 14, wherein the applicable part of the look up number is returned by the calculation scale look up interface (column 17, lines 31-50).

Claims 5 and 15, wherein the applicable part of the base monetary value is returned by the calculation scale look up interface (column 17, lines 31-50).

Claims 6 and 16, wherein the calculation scale look up interface returns parameters comprising: a look up number for comparison to a predetermined set of range start values; the base monetary value; the result multiplier; the set of mathematical weights; and an exception if a required conversion defined by the electronic commerce environment is not available (column 17, lines 31-50).

Claims 7 and 17, Danford-Klein in view of Blinn fails to teach that the range look up result interface returns an exception if a calculation result is not available in a currency specified by the electronic commerce environment. Official Notice is taken that providing exceptions in the financial arts is old and well known. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Danford-Klein in view of Blinn and include returning an exception if a calculation result is not available in a specified currency because it communicates the status of the transaction data so that a correction or another option can be made.

Claims 8 and 18, Danford-Klein fails to teach totals. Blinn teaches that the total results are apportioned by one or more of a group of parameters having quantity, quantity spread by net price, weight, weight spread by net price, non discounted price, net price, unit price, taxable net price, and taxable unit price (column 29, lines 50-59).

Claims 9 and 19, wherein the range look up result interface returns the calculation result calculated from one or more in a set of parameters having a fixed amount, a per unit amount, and a percentage (column 17, lines 31-49 and column 16, lines 24-40). It would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Danford-Klein and include the teachings of Blinn because it provides for obtaining a total when using a calculation scale framework along with calculation rules, unit of measurements and associated ranges.

Claim 11, wherein the recording medium is one of a group of magnetic recording media having a computer disk, a CDROM, and a hard drive (column 4, lines 47 thru column 5, line 7).

Claims 20, wherein said computer readable code means comprises a computer readable signal and said medium comprises a computer readable signal-bearing medium (column 4, lines 47 thru column 5, line 7).

Claim 21, wherein said medium is a recordable data storage medium (column 4, lines 47 thru column 5, line 22).

Claim 22, Danford-Klein in view of Blinn fail to teach that the medium is a modulated carrier signal. Official Notice is taken that modulated carrier signals are old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art at the time of the Applicant's invention to modify the teachings of Danford-Klein in view of Blinn and include that that the medium is a modulated carrier signal because it is an effective way of communicating data for use in a computer network environment.

Claim 23, wherein said signal is a transmission over a network (column 4, lines 47 thru column 5, line 22).

Response to Arguments

Applicant argues that Danford-Klein fails to teach *an optional currency attribute, which when present specifies the currency of the range start numbers*. Applicant asserts that Danford-Klein does not provide for calculations in different currency denominations as suggested by the present invention. In response to applicant's argument, it is noted that the features upon which applicant relies (i.e., different currency denominations) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims state *a currency attribute which when present specifies the currency of the range start numbers*. Danford-Klein teaches a rating engine with actual price data used to calculate the price for linehaul services (column 12, line 59 thru column 13, line 2). Price is clearly a currency attribute which when present specifies the currency. Therefore this argument is not persuasive.

Applicant argues that Danford-Klein fails to teach *providing a calculation scale look up interface, a base monetary value, a result multiplier and a set of mathematical weights corresponding to the set of commerce objects*. Applicant asserts that the cited passage relates to dates and date ranges. The Examiner respectfully disagrees. The section teaches calculation of linehaul service rates within certain date ranges (column 15, lines 43-63). The rating engine mentioned performs cost calculations for linehaul services (column 7, lines 33-45, column 9, line

59 thru column 10, line 13 and column 16, lines 23-40). The rating engine also provides calculations using a base monetary value (column 16, lines 23-40). Therefore Applicant's argument is not persuasive because Danford-Klein clearly teaches that the rates calculated by the rating engine are limited to dates.

Applicant argues that Blinn fails to teach *replacing the previously determined multiplication product when the calculation range is non-cumulative*. Applicant's argument is limited in that Applicant merely provides the generalization that Blinn fails to teach this limitation. Danford-Klein in view of Blinn teach *replacing the previously determined multiplication product when the calculation range is non-cumulative*. Danford-Klein teaches replacing previous calculations with new calculations in a non-cumulative range (column 16, lines 23 thru column 17, lines 50). Blinn also discloses replacing a multiplication product when a calculation is non-cumulative (column 26, lines 3-59). Applicant is reminded the claims are given their broadest reasonable interpretation and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant argues that the Examiner did not state whether or not Danford-Klein or Blinn teaches the step of apportioning the total result to the set of commerce objects in proportion to the set of mathematical weights. The Examiner respectfully disagrees. The Examiner pointed out passages in the office action mailed 06 October 2006. Therefore this argument is not persuasive.

(10) Response to Argument

The Examiner summarizes the various points raised by the Appellant and addresses them individually.

A. Rejection of claims 1-23 under 35 U.S.C. § 103(a) over Danford-Klein et al. (hereinafter Danford-Klein) in view of Blinn et al. (hereinafter Blinn).

1. Regarding independent claim 1, Appellant argues that the cited prior art fails to teach *calculation ranges, each said calculation range being either cumulative or non-cumulative...and having an optional currency attribute, which when present specifies the currency of the range start numbers.*

In Response: The Examiner respectfully disagrees with the Appellant. Danford-Klein teaches calculation ranges such as date ranges and zone ranges as part of a rating engine which are part of calculations (column 12, line 64 thru column 13, line 13 and column 15, line 43 thru column 16, line 15). Danford-Klein further teaches adding/multiplying the results from the rating engine (column 16, lines 16-39). Further, Danford-Klein teaches specifically a cumulative service rating for correct rating (column 21, lines 1-8). Examiner notes that all that is required in the language of the claim is one of cumulative or non-cumulative.

The Examiner respectfully disagrees with Appellant's argument that Danford-Klein fails to teach an optional currency attribute, which when present specifies the currency of the range start numbers. Danford-Klein teaches a rating engine with actual price data used to calculate the price for linehaul services (column 12, line 59 thru column 13, line 2). Price is a currency attribute which when present specifies the currency in the calculation. If the price were not

present, then no currency would be specified. Furthermore, given the broadest reasonable interpretation of the claims, the Examiner notes that this limitation is not actively claimed and the phrases “optional” and “when present” do not require that they be present in the claim. Instead, it appears that the limitation is non-functional descriptive material because the limitation is not required for the claim to carry out its function because the limitation is optional and not always present and the claim does not function differently depending on whether the currency attribute is there or not.

2. Applicant argues that Danford-Klein fails to teach *providing a calculation scale look up interface, a base monetary value, a result multiplier and a set of mathematical weights corresponding to the set of commerce objects*. Applicant asserts that the cited passage relates to dates and date ranges.

In Response: The Examiner respectfully disagrees. Given the broadest reasonable interpretation, the section teaches calculation of linehaul service rates within certain date ranges (column 15, lines 43-63). The rating engine mentioned performs cost calculations for linehaul services (column 7, lines 33-45, column 9, line 59 thru column 10, line 13 and column 16, lines 23-40). The rating engine also provides calculations using a base monetary value (column 16, lines 23-40). Applicant’s specification states that mathematical weights are “shipping weights” (page 9, lines 12-15). Danford-Klein clearly teaches including shipping weight during calculations (column 17, lines 31-50 and Table 1 and column 12, line 64 thru column 13, line 13). Therefore Applicant’s argument is not persuasive because Danford-Klein teaches that rate calculations by the rating engine using date ranges and mathematical weights.

3. Applicant argues that Blinn fails to teach the totaling step by *replacing the previously determined multiplication product when the calculation range is non-cumulative*.

In Response: Danford-Klein teaches additive and multiplier rating engines for calculating results (column 16, lines 16-45). Blinn teaches providing a total result for a calculation scale by summing up all the individual calculations (column 29, line 50 thru column 30, line 39). Therefore Danford-Klein in view of Blinn clearly teaches adding the multiplications products when the range is cumulative as recited in claim 1. Given the broadest reasonable interpretation, this alone is sufficient for the teachings of claim 1 regarding this limitation because the calculation has to only be either cumulative or non-cumulative in the alternative and it is not required that both be present. Applicant has failed to claim the limitations in such a way that would require a determination if the calculation was to be done in either a cumulative or non cumulative manner, and thus require both. Applicant is reminded the claims are given their broadest reasonable interpretation and although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Nonetheless, the Examiner believes that Danford-Klein teaches replacing previously determined multiplication products when the calculation range is non-cumulative. First, it is worthy of noting that the claim fails to teach what the previously determined multiplication product is replaced with when the calculation range is non-cumulative. Therefore a broad interpretation is reasonable and any change of the multiplication product would be deemed non-cumulative. Danford-Klein teaches tiered services which can be rated as "independent" rather

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than “cumulative,” therefore giving the service an independent rating (column 20, lines 57-67). Danford-Klein also teaches applying discounts to the multiplication products (column 16, lines 16-39). Blinn discloses replacing a multiplication product when a calculation is non-cumulative in that Blinn teaches using flat prices or look-up values as method for calculating shipping/handling rather than a linear calculation which uses the multiplication rate based on quantity or weight (column 26, lines 3-59). Blinn also teaches replacing order totals with adjusted totals (column 34, lines 9-32). Therefore, the applied discounts, total shipping charges and adjusted totals are non-cumulative because the calculations replacing the multiplication product by adjusting the total calculation.

4. For these reasons, Appellant’s arguments regarding claim 1 is not persuasive and thus stands rejected. No separate arguments have been provided for claims 2-23 and therefore all the claims stand or fall with claim 1.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
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